

ORIGINAL

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

FLORENCE T. NAKAKUNI #2286
United States Attorney
District of Hawaii

DEC 17 2014
at 11 o'clock and 53 min. ⁹ M. AW
SUE BEITIA, CLERK

LESLIE E. OSBORNE, JR. #3740
Chief, Criminal Division

LESLIE E. OSBORNE, JR. #3740
Room 6-100, PJKK Federal Bldg.
300 Ala Moana Boulevard
Honolulu, HI 96850
Telephone: (808) 541-2850
Facsimile: (808) 541-2958
E-mail: Les.Osborne@usdoj.gov

Attorneys for Plaintiff
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,) CR. NO. 14-00826 HG
)
)
Plaintiff,)
)
) SUPERSEDING INDICTMENT
vs.)
)
[26 U.S.C. 7212(a)])
ALBERT S.N. HEE,)
)
)
Defendant.)
)
)

SUPERSEDING INDICTMENT

COUNT 1

**(Corrupt interference with the Administration of
Internal Revenue Laws)
26 U.S.C. 7212(a)**

The Grand Jury charges that at all times
relevant to this Indictment:

From on or about 2002 and continuing to on or
about 2012, in the District of Hawaii and
elsewhere, Defendant ALBERT S.N. HEE (hereinafter
"the Defendant") did corruptly endeavor to obstruct
and impede the administration of the Internal
Revenue Laws as set out below.

DEFINITIONS

1. The Internal Revenue Service ("IRS") was
an agency of the United States within the
Department of the Treasury of the United States
responsible for enforcing and administering the tax
laws of the United States. The federal income tax
system of the United States of America relies upon

citizens to truthfully, accurately, and timely report income and expense information to the IRS.

2. A Form 1040, U.S. Individual Income Tax Return ("Form 1040"), was an IRS form used by individual taxpayers to report their annual income, deductions, credits, and tax due and owing. All U.S. taxpayers were required to file a Form 1040 if their total income in a given year was above a certain threshold.

3. A Form 1120, U.S. Income Tax Return for a C Corporation ("Form 1120"), was an IRS form used to report the income, gains, losses, deductions, and credits of a C Corporation. All C Corporations were required to file a Form 1120 on an annual basis. Tax payment(s) are made with an F1120 since the C Corporation is considered to be a separate tax paying entity.

4. On or about January 1988, the Defendant incorporated Waimana Enterprises Inc. (WEI), on or about August 1997, the Defendant incorporated

Clearcom Inc. (CCI), and on or about January 1995, the Defendant incorporated Sandwich Isles Communications Inc. (SIC).

5. The Defendant owns 100% of the stock in WEI. WEI is the parent corporation of CCI and SIC and owned 100% of CCI's and SIC's stock. During the years 2002 to 2013, the Defendant owned 100% of the stock of WEI.

6. Waimana Enterprises Inc. (WEI) is a corporation with its principal place of business in Mililani, Hawaii. Waimana Enterprises Inc. was a C corporation for tax purposes, that engaged primarily in providing management services to its "child" or subsidiary corporations, Sandwich Isles Communications Inc. (SIC) and Clearcom Inc. (CCI) were also C corporations for tax purposes and were 100% owned by WEI.

7. Sandwich Isles Communications Inc. (SIC) was a corporation with its principal place of business in Honolulu, Hawaii. SIC was a

C corporation for tax purposes that engaged in the business of building of a telecommunications network for the Department of Hawaiian Homelands (DHHL) and providing the services associated with a telecommunications network to the DHHL. Since its incorporation in 1995, 100% of SIC's stock has been owned by WEI, making WEI the parent corporation and CCI and SIC brother/sister corporations.

8. Clearcom Inc. (CCI) was a C-corporation with its principal place of business in Honolulu, Hawaii. CCI was a C-corporation for tax purposes that engaged in the business of building telecommunications networks for SIC and providing telecommunications services to non-DHHL customers. Since its inception in 1997, 100% of CCI's stock has been owned by WEI, making WEI the parent corporation and SIC and CCI brother/sister corporations.

The Scheme

9. Paragraphs 1 through 8 are incorporated herein by reference as if set forth in full.

WAIMANA ENTERPRISES INC. (WEI)

10. In the period from 2002 to 2012, the Defendant caused WEI to pay a total of \$4,063,294.39 of his personal expenses. These personal expenses consisted of the following types of payments: a false loan to shareholder totaling \$718,559.09, which was used to pay for tuition, books and rent payments for the Defendant's three college age children, a purchase of a house in Santa Clara, CA for \$1,313,261.34 and used exclusively by the Defendant's two children; \$33,523.00 of college tuition payments for the Defendant's child; \$92,000.00 in payments for personal massages for the Defendant; \$121,878.87 in personal credit card charges by the Defendant; \$722,550.39 in false wages paid to the Defendant's three children who did no work for WEI; \$590,201.56

of false wages paid to the Defendant's wife who did no work for WEI; \$443,103.64 of false employment benefits paid on behalf of the Defendant's three children and wife who did no work for WEI, and \$28,216.50 of cash withdrawals by the Defendant.

11. The Defendant did not claim the \$4 million of personal payments as income on his personal tax returns filed for the years 2002 to 2012.

12. The \$4 million in personal expense payments which the Defendant did not reported as income resulted in personal Federal taxes due and owing by the Defendant of \$425,988.00 for the years 2002 to 2012. Because the Defendant improperly deducted some of the personal expenses as business expenses, the Defendant caused WEI to underpay its Federal corporate taxes in the amount of \$140,651.00.

13. The Defendant instructed NH, his Secretary/Administrative Assistant/Office Manager (who kept the books of WEI) to pay for his

children's tuition, room and books. In 2004, the Defendant instructed NH to classify \$33,523.00 of tuition payments as "business educational expenses".

14. In 2006, the Defendant's return preparer reclassified all 2005 tuition payments as "loans to shareholder" for the 2005 year. The total amount of payments booked as "loan to shareholder" in the period 2005 to 2012 was \$718,559.09.

15. In the years 2002 to 2012, the Defendant repeatedly provided additional false information to his Secretary/Administrative Assistant/Office Manager and his return preparers; which caused false books and records and false tax returns to be prepared by his Secretary/Office Manager and his return preparers.

All in violation of Title 26, United States Code, Section 7212(a).

COUNT 2

**(Making and Subscribing a False Return, Statement,
or Other Document Venue in District of Preparation
and Signing)**

26 U.S.C. 7206(1)

The Grand Jury further charges:

On or about October 1, 2008, in the District of Hawaii, Defendant ALBERT S.N. HEE (hereinafter "the Defendant"), a resident of Kailua, Hawaii, did willfully make and subscribe a Form 1040 U.S. Individual Income Tax Return for the calendar year 2007, which was filed with the Internal Revenue Service and was false as to a material matter; verified by a written declaration that it was made under the penalties of perjury, which said income tax return he did not believe to be true and correct as to every material matter in that his income tax return reported total income in the amount of \$183,464.00, whereas the Defendant knew well and believed that his total income was approximately \$439,403.00.

All in violation of Title 26, United States
Code, Section 7206(1).

COUNT 3

**(Making and Subscribing a False Return, Statement,
or Other Document Venue in District of Preparation
and Signing)**

26 U.S.C. 7206(1)

The Grand Jury further charges:

On or about September 17, 2009, in the District of Hawaii, Defendant ALBERT S.N. HEE (hereinafter "the Defendant"), a resident of Honolulu, Hawaii, did willfully make and subscribe a Form 1040 U.S. Individual Income Tax Return for the calendar year 2008, which was filed with the Internal Revenue Service and was false as to a material matter; verified by a written declaration that it was made under the penalties of perjury, which said income tax return he did not believe to be true and correct as to every material matter in that his income tax return reported total income in the amount of \$186,078.00, whereas the Defendant knew

well and believed that his total income was approximately \$1,939,652.00.

All in violation of Title 26, United States Code, Section 7206(1).

COUNT 4

(Making and Subscribing a False Return, Statement, or Other Document Venue in District of Preparation and Signing)

26 U.S.C. 7206(1)

The Grand Jury further charges:

On or about May 21, 2010, in the District of Hawaii, ALBERT S.N. HEE (hereinafter "the Defendant"), a resident of Honolulu, Hawaii, did willfully make and subscribe a Form 1040 U.S. Individual Income Tax Return for the calendar year 2009, which was filed with the Internal Revenue Service and was false as to a material matter and verified by a written declaration that it was made under the penalties of perjury, which said income tax return he did not believe to be true and correct as to every material matter in that his income tax return reported total income in the

amount of \$637,975.00, whereas Defendant ALBERT S.N. HEE knew well and believed that his total income was approximately \$1,049,239.00.

All in violation of Title 26, United States Code, Section 7206(1).

COUNT 5

(Making and Subscribing a False Return, Statement, or Other Document Venue in District of Preparation and Signing)

26 U.S.C. 7206(1)

The Grand Jury further charges:

On or about October 12, 2011, in the District of Hawaii, Defendant ALBERT S.N. HEE (hereinafter "the Defendant"), a resident of Honolulu, Hawaii, did willfully make and subscribe a Form 1040 U.S. Individual Income Tax Return for the calendar year 2010, which was filed with the Internal Revenue Service and was false as to a material matter; verified by a written declaration that it was made under the penalties of perjury, which said income tax return he did not believe to be true and correct as to every material matter in that his

income tax return reported total income in the amount of \$495,614.06, whereas Defendant ALBERT S.N. HEE knew well and believed that his total income was approximately \$940,504.06.

All in violation of Title 26, United States Code, Section 7206(1).

COUNT 6

(Making and Subscribing a False Return, Statement, or Other Document Venue in District of Preparation and Signing)

26 U.S.C. 7206(1)

The Grand Jury further charges:

On or about August 2, 2012, in the District of Hawaii, Defendant ALBERT S.N. HEE (hereinafter "the Defendant"), a resident of Honolulu, Hawaii, did willfully make and subscribe a Form 1040 U.S. Individual Income Tax Return for the calendar year 2011, which was filed with the Internal Revenue Service and was false as to a material matter; verified by a written declaration that it was made under the penalties of perjury, which said income tax return he did not believe to be true and

correct as to every material matter in that his income tax return reported total income in the amount of \$327,744.00, whereas the Defendant knew well and believed that his total income was approximately \$694,397.00.

All in violation of Title 26, United States Code, Section 7206(1).

COUNT 7

(Making and Subscribing a False Return, Statement, or Other Document Venue in District of Preparation and Signing)
26 U.S.C. 7206(1)

The Grand Jury further charges:

On or about October 8, 2013, in the District of Hawaii, Defendant ALBERT S.N. HEE (hereinafter "the Defendant"), a resident of Honolulu, Hawaii, did willfully make and subscribe a Form 1040 U.S. Individual Income Tax Return for the calendar year 2012, which was filed with the Internal Revenue Service and was false as to a material matter; verified by a written declaration that it was made under the penalties of perjury,

which said income tax return he did not believe to be true and correct as to every material matter in that his income tax return reported total income in the amount of \$1,353,217.00, whereas the Defendant knew well and believed that his total income was approximately \$1,688,821.00.

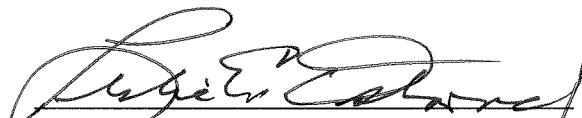
All in violation of Title 26, United States Code, Section 7206(1).

DATED: DEC 17 2014, at Honolulu, Hawaii.

A TRUE BILL

/s/ Foreperson
FOREPERSON, GRAND JURY

FLORENCE T. NAKAKUNI
United States Attorney
District of Hawaii


LESLIE E. OSBORNE, JR.
Chief, Criminal Division


LESLIE E. OSBORNE, JR.
Assistant U.S. Attorney